

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: PARK WEST GALLERIES, INC., LITIGATION

MDL No. 2378

TRANSFER ORDER

Before the Panel: Pursuant to 28 U.S.C. § 1407, defendants Theresa Franks and Global Fine Arts Registry, LLC, move to centralize this litigation in the Central District of California or, in the alternative, the District of Nevada. This litigation currently consists of nine actions listed on Schedule A. Plaintiff Park West Galleries, Inc. (Park West) opposes centralization.

On the basis of the papers filed and hearing session held, we find that these nine actions involve common questions of fact, and that centralization in the Southern District of New York will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The nine actions share factual questions arising out of allegations that defendants accused Park West of art fraud in an extensive “cyber-smear” campaign and caused customers to cancel their contracts for the purchase of artwork from Park West. Centralization will avoid duplicate discovery, eliminate the risk of inconsistent pretrial rulings, and conserve the resources of the parties, their counsel, and the judiciary.

Plaintiff argues that centralization is inappropriate because of the presence of individualized issues pertaining to each of its customers. We respectfully disagree that these circumstances make centralization unwarranted. While each action will involve some individual questions of fact as to defendants’ communications with each customer, all actions involve numerous common factual questions arising from the alleged “cyber-smear” campaign against Park West and allegations of art fraud. Discovery and other pretrial proceedings will focus on the same series of events. Pretrial motions likely will be similar in these actions. In any event, Section 1407 does not require a complete identity or even a majority of common factual issues as a prerequisite to centralization. *See In re Tribune Co. Fraudulent Conveyance Litig.*, 831 F. Supp. 2d 1371, 1371 (J.P.M.L. 2012).

The Southern District of New York is an appropriate transferee district for this litigation. Judge Colleen McMahon is an experienced transferee judge who we are confident will steer this litigation on a prudent course.

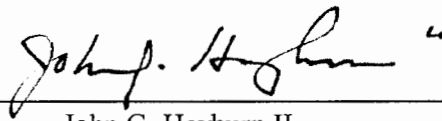
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RUBY J. KRAJICK, CLERK

BY Shante Jones
Deputy Clerk

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IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the Southern District of New York are transferred to the Southern District of New York and, with the consent of that court, assigned to the Honorable Colleen McMahon for coordinated or consolidated pretrial proceedings with the actions pending in that district and listed on Schedule A.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, reading "John G. Heyburn II", is positioned above a horizontal line.

John G. Heyburn II
Chairman

Kathryn H. Vratil
Barbara S. Jones
Marjorie O. Rendell

W. Royal Furgeson, Jr.
Paul J. Barbadoro
Charles R. Breyer

IN RE: PARK WEST GALLERIES, INC., LITIGATION

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SCHEDULE A

Southern District of Florida

Park West Galleries, Inc. v. Theresa Franks, et al., C.A. No. 1:12-21282

District of Massachusetts

Park West Galleries, Inc. v. Theresa Franks, et al., C.A. No. 1:12-10588

Eastern District of Missouri

Park West Galleries, Inc. v. Theresa Franks, et al., C.A. No. 4:12-00683

District of Nevada

Park West Galleries, Inc. v. Theresa Franks, et al., C.A. No. 2:12-00540

District of New Jersey

Park West Galleries, Inc. v. Theresa Franks, et al., C.A. No. 2:12-02219

Southern District of New York

Park West Galleries, Inc. v. Theresa Franks, et al., C.A. No. 1:12-03007

Eastern District of North Carolina

Park West Galleries, Inc. v. Theresa Franks, et al., C.A. No. 5:12-00194

Northern District of Ohio

Park West Galleries, Inc. v. Theresa Franks, et al., C.A. No. 5:12-00856

District of South Carolina

Park West Galleries, Inc. v. Theresa Franks, et al., C.A. No. 7:12-01007